



# California Fair Political Practices Commission

January 29, 1987

Robert W. Gross, Member  
Board of Directors  
Santa Clara Valley Water District  
1035 Vista Del Mar  
San Jose, CA 95132

Re: Your Request for Advice  
Our File No. I-86-346

Dear Mr. Gross:

It was a pleasure to meet with you and Mrs. Gross when you were in Sacramento on January 5. As we discussed in some detail at that time, the issues which you have raised in your correspondence and in our conversation do not lend themselves to resolution through the Commission's advice-giving function.

Your complaint is that the District has utilized a dual standard for dealing with you in the eminent domain proceedings to acquire your property. You have acted in accordance with our advice letter (No. A-84-208) and have disqualified yourself from participating in any way in the District's decisions regarding the acquisition of your property. You feel that the District has not acted fairly in that it hired outside counsel to handle the matter, but the Board has held closed session meetings to discuss the case and then refused to negotiate, through its attorney, to attempt to resolve the case short of a full-blown trial. This resulted in increased legal expenses for you.

I suggested that you might wish to contact the Attorney General's Office to learn if the procedure followed by the Board was dictated by the provisions of Government Code Section 1090. (See our previous advice letter No. A-84-208 at p.3.)

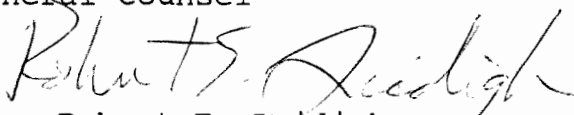
At this time, there is no further advice which this agency can render as all the events are in the past and the issues you have raised are outside the scope of the Political Reform Act. (Government Code Sections 81000-91015.)

Robert W. Gross, Member  
January 29, 1987  
Page 2

If you have any questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Robert E. Leidigh  
Counsel, Legal Division

DMG:REL:plh



ROBERT W. GROSS  
THE MUDFLAT REFUGE

CABLE:  
(408) 263-4170 USA

906 ELIZABETH STREET  
ALVISO, CA. 95002

FEB 18 8 40 AM '87

February 12, 1987

California Fair Political Practice Commission  
428 J Street, Suite 800  
P.O. Box 807  
Sacramento, CA 95804-0807  
Attn: Mr. Robert E. Leidigh, Counsel, Legal Division

Dear Bob:

Just a quick note to thank you for your time and  
the follow-up of our request.

I have enclosed a copy of our letter to the attorney  
general's office for your information.

We will keep you advised as to what happens in this  
case.

Very truly,



Mr. & Mrs. Robert W. Gross

ROBERT W. GROSS  
THE MUDEPLAT REFUGE

CABLE  
408 283-4170 USA

906 ELIZABETH STREET  
ALVISO, CA. 95002

February 12, 1987

Mr. John Van de Kamp  
State Attorney General  
1515 K. Street  
Sacramento, CA 95814

RE: Follow-up letter from the Fair Political  
Practice Commission and request clarification  
of Government Code 1090

Dear Attorney General:

Mrs. Gross and I are requesting your office investigate if the correct procedures were used as outlined below in the taking of a portion of our lands under eminent domain as an elected official. I am and was a director for Santa Clara Valley Water District at the time when the property was taken.

During the taking of a portion of our land, we followed the letter of the law and advice from the Fair Political Practice Commission (please see the attached documents).

Our concern is under Government Code 1090, the Santa Clara Valley Water District and special outside counsel in our opinion did not follow the due process of law, which should have protected us under the constitution.

FACTS

S.C.V.W.D. hired special outside counsel to remove the possibility of any conflict or influence from staff or fellow board members.

Special counsel kept going back to S.C.V.W.D. for advice other than technical support (this included 3 closed executive sessions and conflicts with above, in short, S.C.V.W.D. staff and directors did not stay at arms length, they were involved in the decision by their own actions).

Special counsel refused to make counter offers before 3 separate Superior Court Settlement Judges claiming that he was forced into a full blown trial because of the ruling given to S.C.V.W.D. and himself, but in reality, no such advice was given to either party from the F.P.P.C.

February 12, 1987 Page 2, Attorney General, Government Code 1090

This was not only a costly trial to us, but also to the taxpayer (legal fees, court costs, interest paid, hundreds of man hours of S.C.V.W.D. employees, and unknown other related expenses).

#### QUESTION

Could and why, under Government Code 1090, with the facts that are presented, could this case have been settled before a Superior Court Settlement Judge by both the plaintiff and defendant's counsel, providing counters offers were made and accepted by both parties?

Or does Government Code 1090 require that a full blown trial is required in eminent domain cases against an elected public official?

If a full blown trial is required under Government Code 1090, then why did plaintiff's counsel require us to appear before three Settlement Judges?

#### CONCLUSION

Mrs. Gross and I sense that this eminent domain procedure did not protect us under due process, and our civil and constitutional rights were not carefully handled by S.C.V.W.D., their special counsel and the courts.

We would like to have you pay close attention to the memorandum 10/22/86 S.C.V.W.D. and read the court order dated 12/2/86, it is full of conflicts and proves our point, S.C.V.W.D. staff and directors did play a role far deeper than they should have.

Enclosed, you will find background and other documents to assist you in understanding what has taken place.

If you have any questions, please call upon me, and we are thanking you in advance for your consideration in this matter.

Very truly,

*Mr. & Mrs. Robert W. Gross*

Mr. & Mrs. Robert W. Gross  
(home address)  
1035 Vista Del Mar  
San Jose, CA 95132

Encl: Supporting Documents

cc: Mr. Quentin Smith Esq.

ROBERT W. GROSS  
THE MUDFLAT REFUGE

CABLE  
(408) 263-4170 USA

906 ELIZABETH STREET  
ALVISO, CA. 95002

FEB 4 8 34 AM '87

February 3, 1987

Mr. Robert E. Leidigh  
Counsel, Legal Division  
California Fair Political Practices Commission  
428 J. Street, Suite 800  
P.O. BOX 807  
Sacramento, CA 95804-0807 (916) 322-5660

Dear Bob:

Lonnie and I would like to thank you for your consideration in taking time from your schedule while we were in Sacramento.

We do appreciate your response to our many questions, and we will be contacting the Attorney General's Office as you have outlined.

Thanks again for everything,



ROBERT W. GROSS

December 15, 1986

State of California  
Fair Political Practice Commission  
P. O. Box 807  
1100 K Street Bldg.  
Sacramento, CA 95814

Attn: Robert E. Leidigh, Counsel, Legal Division

Re: Request for Advice No. A-84-208

Dear Mr. Leidigh,

This is a follow up on the above subject and we are requesting that your office and if necessary, contact the Attorney General's Office for additional guidance and investigation in reference to the condemnation of our lands.

#### BACKGROUND

State of California, Fair Political Practices Commission - request for advice 9/18/86 No. A-84-208, Robert W. Gross, elected member of the Board of Directors, Santa Clara Valley Water District, case of the District condemning the lands of an elected official.

#### CLARIFICATION & NAMES

GROSS	Yolanda B. & Robert W. Gross
HENLEY	General Counsel for S.C.V.W.D.
DISTRICT	Santa Clara Valley Water District (S.C.V.W.D.)
MATTEONI	Special outside counsel hired by the District
SMITH	Counsel hired by Gross
STAFF	S.C.V.W.D.
DIRECTORS	Elected board - 5 members are elected while 2 are appointed by the Board of Supervisors. Gross is an elected member.
F.P.P.C.	Fair Political Practice Commission, State of CA.
O'HALLORAN	General Manager, S.C.V.W.D.
ESAU	Assn't " " "
LAWRIE	Real Estate Agent Staff Member, S.C.V.W.D.
PINO	Clerk of the Board
S.C.C.S.C.	Santa Clara County Superior Court
Judge	John McInery " " "

#### FACTS

1. F.P.P.C. ruling 9/19/86 A-84-208
2. S.C.V.W.D. hired outside special counsel Matteoni so that there would be hands off from District and Directors



3. Condemnation filed by S.C.V.W.D.
4. Gross hired counsel Smith
5. S.C.V.W.D. hired outside appraiser
6. Gross hired appraiser
7. Mandatory settlement in S.C.C.S.C. (normal exchange of appraisals etc. with attorneys had taken place for several months prior to appearance in court), no decision by Matteoni.
8. Second mandatory settlement in S.C.C.S.C., no decision made by Matteoni.  
NOTE: At both conferences in S.C.C.S.C. the judges told counsel to settle this case and avoid trial, Gross via Smith was willing before the court to counter offer and make settlement, Matteoni said he had no power to do so without approval from the District and board (Case No. 56604-12/2/86).
9. Matteoni repeated he had no power in Judge McInery's chamber's that he had no power.
10. Trial set in S.C.C.S.C.
11. Matteoni held numerous meetings, phone calls, conversations, letters, several executive closed sessions with the staff and the Directors of S.C.V.W.D. to discuss this case (See Memorandum 12/9/86).
12. Gross followed the letter of the law in reference to F.P.P.C. letter (9/19/84) during this period of time.
13. Matteoni refused to make counter offers to Gross via Smith and the court and forced Gross into a six day costly trial to both sides.
14. Six day trial started, Judge McInery asked if the trial could be avoided and Matteoni again would not make a counter offer, no authority without District approval.
15. Settlement concluded and a memorandum of decision awarding Gross several times plus what the District's offer was, including the rights to the waterfrontage for commercial application of boat berthing.
16. Matteoni denied to the court, Judge McInery ordered that any and all litigation expenses be burdeoned by Gross and not the District (Why was Henley involved - See Matteoni billing 10/1/86)?
17. Henley memorandum 10/22/86 to the Directors indicates the activities of both the District's participation along with

Matteoni (Also, See Matteoni billings).

18. Smith files a notice of appeal in S.C.C.S.C. for litigation expenses of Gross.

#### UNDERSTANDING

From day one, it was the understanding that Matteoni was to be totally independent from the District staff and the board other than the gathering of appraisal, technical support, title report and documentation (this differs from Henley memo 10/22/86). Matteoni was to insure that no staff or director would influence this case in anyway other than the above conclusions, he was to keep all parties at arms length which includes Gross.

#### CONCERNS

1. Gross has concern that Matteoni was hired by the District (please see understanding) that he had the authority and the power to conclude a counter offer before S.C.C.S.C. via a mandatory settlement and avoid a costly trial to both the District and Gross. The game plan seemed to change because Matteoni became an employee and not outside counsel.
2. Gross has concern as a taxpayer, that this trial could have been avoided and the letter from the F.P.P.C. could have been followed by settlement conference in Superior Court, this action also placed stress on a judicial system that is well over-taxed.
3. Gross has concern and it is their opinion that S.C.V.W.D. over played an active role in this case other than supplying of appraisal and other technical support, once Matteoni was hired as special outside counsel, there are areas and monies that should have never been discussed by anyone other than Matteoni, Smith, and a judge in Superior Court.
4. Gross has concern once the condemnation papers were filed, that Matteoni should not have appeared before, communicated and entered into several closed sessions to discuss this case. Gross understands that the District was the client and under normal circumstances, this is the procedure, but the involvement of the district staff and the board at this level with Matteoni is more that questionable no matter what was said or communicated, the staff should have remained at arms length and they did not do so (See Henley memo 10/22/86 & Matteoni billing).
5. Gross has concern that as an elected official, he was told that he would be required to leave the chambers, that is taking away an elected right to represent even though there would be no participation.

6. Gross has concern that the closed executive sessions were held from open public hearings as to this case, it proves or appears that the district did not act at arms length and did influence the actions of Matteoni because of his employment and he did not want to take on the responsibility before a mandatory settlement judge. Henley by admission of his memorandum shows that the district kept strings upon Matteoni (10/22/86), this is not arms length by any means by the district's action or control.
7. Gross has concern that the district and Matteoni did not follow the same guidelines as Gross and it is the opinion that the action of the district and Matteoni violated the laws of the F.P.P.C., too much involvement.
8. Gross has concern, that if Gross was required to abstain, influence, etc., logic tells one that the district and the directors would be under the same guidelines and Matteoni would not be influenced by his employment in this case or any legal advice in the future.
9. Gross has concern that the district played far deeper role in this case, and by the district's actions, failed to give Matteoni the authority via S.C.C.S.C. during the mandatory settlement conferences, held strings.
10. Gross has concern that the F.P.P.C. will not uncover the facts and opinions that have been violated by the district, and no action will be taken.
11. Gross has concern that the district via Matteoni made the guidelines that were only applicable to them and used them for their position and not operate at arms length in this case.
12. Gross has concern, soon there will be condemnation of lands that belong to two other directors, will they be given the same treatment by staff? Be assured, as a director, with the knowledge I have experienced in this case, I would pursue this with the same vigor for investigation if the particulars are the same.

#### **REQUEST**

Gross again is requesting from the F.P.P.C. review of the actions of the board, district and special counsel as it has been described in this action and report the findings back.


#### **CONCLUSIONS**

What has been presented to F.P.P.C. is based upon our personal knowledge and opinion and is believed to be accurate.

If you have any questions, please do not hesitate to call upon me and I have enclosed some supporting documents for your review.

Mrs. Gross and myself, feel that in our opinion, our civil and constitutional rights were not protected under the law and that they were violated and may be cause for action on our part.

Very truly yours,



Yolanda B. & Robert W. Gross  
1035 Vista Del Mar  
San Jose, CA 95132  
(408) 263-4170  
Robert W. Gross (office)  
Director District 3  
P. O. Box 55  
Alviso, CA 95002

CC: 1. Mr. Quentin Smith, Esq.  
2. California United Taxpayers Association

NOTE: A copy of this documentation will be given to the Presiding Judge, Santa Clara County Grand Jury upon completion.

IN AND FOR THE COUNTY OF SANTA CLARA

Plaintiff

SANTA CLARA VALLEY WATER DISTRICT

Defendant

ROBERT W. GROSS

PROOF OF SERVICE BY MAIL OF:

- ☐ Trial Setting Conference Order ☐ Memorandum of Decision
- ☐ Pre-Trial Conference Order ☐ \_\_\_\_\_
- ☐ Addendum to Pre-Trial/Trial Setting \_\_\_\_\_
- ☒ ORDER re Litigation Expenses \_\_\_\_\_

EXHIBIT I

FILED

DEC 2 1986

GRACE K. YAMAKAWA

Case Number

566604

THE UNDERSIGNED SAYS THAT: "I AM A CITIZEN OF THE UNITED STATES, OVER 18 YEARS OF AGE, EMPLOYED IN SANTA CLARA COUNTY AND NOT A PARTY TO THE CAUSING TO BE PLACED A

The Defendant ROBERT V. GROSS was, and is, a member of the governing board of the Plaintiff DISTRICT, and as such, both parties exercised great caution in conducting any negotiations regarding their different valuations of the subject property. It is the position of the Defendants that they were precluded by the circumstances from being able to make a settlement offer to Plaintiff, and they base this contention on the alleged disclaimer of the attorney for the board as to having any settlement authority given to him by the board and also a letter

? Question - did F.P.P.C. give guidelines to S.C.V.W. or to Mattsoni?

of advice from the Fair Political Practices Commission of the State of California.

The attorney for Plaintiff disputes the allegation that he lacked any settlement authority, but he admits he was under limitations in that regard. District control?

The Court accepts the affidavit of Plaintiff's counsel as accurately describing his limited settlement authority, but the

District control?

TO: Director Gross and Board Members

FROM: A. T. Henley

SUBJECT: SCVWD v. Gross et ux.

DATE: October 22, 1986

You have asked five questions regarding the captioned lawsuit. They are quoted and answered below:

1. "Under what authority was Mr. Norman Matteoni, Esq. hired, employed, represent S.C.V.W.D. vs. Gross et al?"

ok The authority to hire counsel is found in several places. Section 5.2. of the District's Act authorizes the District to "sue and be sued". The authority to exercise the right of eminent domain is specifically given in Section 6. These activities require the services of an attorney. Finally, Section 9 provides that the Board may "employ...attorneys", among others, to further the purposes of the act.

2. "Was Matteoni given a written contract from S.C.V.W.D.?"

No. **VERY POOR ARRANGEMENT**

- ✓ 3. "What type of authority was Matteoni given, limited or full?"

★ Mr. Matteoni's authority consisted in representing the District in all proceedings concerned in the suit. He had no authority to bind the District to any payment figure without leave of the Board. the board would have influence over matteoni.

- ✓ 4. "What were the instructions, guidelines of said contract, both written and verbal?"

See above. **SAME**

- ✓ 5. Did S.C.V.W.D. (this includes both staff and directors) meet, confer, discuss with Matteoni any matters other than the request for technical information or documentation?

★ Yes. Mr. Matteoni conferred with his clients, the District Directors, in closed session in order to disclose the settlement demand of the Defendant owners made in anticipation of a mandatory settlement conference before the Court. Mr. Matteoni stated that if a reappraisal would permit it he would be prepared to recommend a limited and commensurate raise in the District's offer. The Board made no objection to this. This shows involvement

again by district  
they did not have  
hands off!

  
General Counsel

bc: Norman Matteoni, Esq.  
J. O'Halloran  
R. Esau  
D. Lawrie  
/ A. Henley  
S. Pino

EXHIBIT III

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

October 1, 1984

A Professional Association

Norman E. Matteoni\*

Allan Robert Saxe

Margaret Ecker Nanda

\*Professional Corporation

Mr. Donald Laurie Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

STATEMENT

565390/

Re: Gross

Legal Services for September, 1984

Tele-communications with Gross (9/27)

Correspondence with Gross (9/20)

Review of Henley memo and FPPC letter (9/26)

Visit to property with Lico & Lawrie (9/19)

Henley - in house counsel  
Lico - " " R.E. dept  
Lawrie - " " R.E. "

1.6 hours x \$150

\$240.00 *14 IN*

○ = Santa Clara Valley Water District  
Staff & Directors

1772  
APPROVAL FOR PAYMENT

Y.S.M. \_\_\_\_\_ FUND 1772

CHD 4 \_\_\_\_\_ 1200 USC 601

REVENUE 30/53Q \_\_\_\_\_ CAT \_\_\_\_\_

NOTE: This is a portion of billings, however  
shows extensive involvement with staff and  
directors?

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

RECEIVED

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / 34 NOV 6 11:24 / Telephone (408) 971-6411

November 1, 1984

FINANCE DIVISION  
S.C.V.W.D.

Mr. Donald Laurie, Chief of Revenue  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

A Professional Association

Norman E. Matteoni\*  
Allan Robert Saxe  
Margaret Ecker Nanda

\*Professional Corporation

S T A T E M E N T

Re: Gross

Legal Services for October, 1984

Tele-communications with Lico (10/15)

Meeting with Gross (10/3)

Correspondence with Laurie (10/3)

Review appraisal (10/2)

1.4 hours x \$150

34 NOV 8 A 8:58  
FINANCE DIVISION  
S.C.V.W.D.  
(408) 265 2600

\$210.00

APPROVAL BY CLIENT

5653801 1772  
4 1200 601  
30534 401  
11/7/84

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI



Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

December 3, 1984

A Professional Association

Norman E. Matteoni\*

Allan Robert Saxe

Margaret Ecker Nanda

\*Professional Corporation

Mr. Donald Laurie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for November, 1984

Tele-communications with Lawrie (11/2);  
Lico (11/21)

Correspondence with Gross (11/8); Lawrie  
(11/8, 11/15)

1.0 hours x \$150

APPROVAL FOR PAYMENT

NO. 5653901 FUND 1772

OBJ 4 ACCT 1302 ORG 601

SCCPS 30153 Q SEC 21.3 CAT       

[Signature] 12/13/84 Chk. No.       

34 DEC 12 P 1:10  
FINANCE DIVISION  
S.C.V.W.D.  
408 265 2600  
34 DEC 10 P 4:05  
FINANCE DIVISION  
S.C.V.W.D.  
408 265 2600

RECEIVED

RECEIVED

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

RECEIVED

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

January 2, 1985

A Professional Association

Norman E. Matteoni\*

Allan Robert Saxe

Margaret Ecker Nanda

\*Professional Corporation

Mr. Donald Laurie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for December, 1984

Tele-communications with Lico (12/6, 12/13,  
12/18, 12/19); Bob Smith (12/11)

Correspondence with Gross (12/10, 12/19);  
O'Halloran (12/13); Lico (12/13)

Review notice of condemnation and corres-  
pondence (12/1)

1.6 hours x \$150

\$240.00

APPROVAL FOR PAYMENT

NOV 5653001 FUND 1772  
OBJ 4 ACCT 1200 CRG 601  
ACCT 301530 403 CMT  
1/9/85  
CA. NO.

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

RECEIVED

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / 85 JAN 4 2:59 / Telephone (408) 971-6411

February 1, 1985

FINANCE S.V.D.  
S.C.V.W.D.  
408 265 2600

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

A Professional Association

Norman E. Matteoni\*  
Allan Robert Saxe  
Margaret Ecker Nanda

\*Professional Corporation

S T A T E M E N T

Re: Gross

Legal Services for January, 1985

Tele-communications with Lico (1/9, 1/23,  
1/30)

Discussions with Gross (1/8); Lawrie (1/8)

Correspondence with Gross (1/9, 1/28); Lico  
(1/28)

Attendance at Board of Director's meeting  
for Resolution of Condemnation (1/8)

Review of pleadings (1/23)

3.4 hours x \$150

\$510.00

From this point  
forward is where  
district had influence  
over Matteoni.

APPROVAL FOR PAYMENT

VENO 5653901 FIB 1772

4 1200 601

301530 403

2/6/85  
OK NO.

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

RECEIVED

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor • San Jose, California 95112 / Telephone (408) 971-6411

March 1, 1985

FINANCE DIVISION

S.C.V.W.D.

1408 265 2600

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

A Professional Association

Norman E. Matteoni\*

Allan Robert Saxe

Margaret Ecker Nanda

\*Professional Corporation

S T A T E M E N T

Re: Gross

Legal Services for February, 1985

Tele-communications with Lico (2/25)

Meeting with Gross (2/19)

Conference with Water District staff (2/27)

Correspondence with Gross (2/3, 2/28); Lico  
(2/3, 2/19); Board of Directors (2/27);  
McNeely (2/27); Lawrie (2/27)

Service of process by mail (2/3)

Review of letters from Gross (2/19)

Client =  
Board of  
Directors

3.9 hours x \$150

\$585.00

APPROVAL FOR PAYMENT

5653901 1772

4 1200 601

301530 403

APPROVED: Norm E. Matteoni 3/6/85  
C.A. No.

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

RECEIVED

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor • San Jose, California 95112 / Telephone (408) 971-6411

April 1, 1985  
FINANCE DIVISION  
S.C.V.W.D.

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

A Professional Association  
Norman E. Matteoni\*  
Allan Robert Saxe  
Margaret Ecker Nanda  
\*Professional Corporation

S T A T E M E N T

Re: Gross

Legal Services for March, 1985

Tele-communication with Henley (3/5)

Correspondence with District Staff (3/4);  
Laurie (3/11); Gross (3/11, 3/13); Henley  
(3/13, 3/20)

Review of Gross correspondence (3/5, 3/7)

2.2 hours x \$150

\$330.00

APPROVAL FOR PAYMENT

VERB 56539-01 FUND 1772

CBS 4 1200 601

301530 403

APR 11 1985 1/9/85

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

*Matteoni, Saxe & Nanda/Lawyers*

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

May 1, 1985

*A Professional Association*

*Norman E. Matteoni\**

*Allan Robert Saxe*

*Margaret Ecker Nanda*

*\*Professional Corporation*

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for April, 1985

Tele-communications with Anastasi (4/2);  
Gross (4/11)

Correspondence with Gross (4/9, 4/18, 4/25);  
Lawrie (4/18, 4/25)

1.3 hours x \$150

\$195.00

RECEIVED

35 MAY 3 11:47

FILED IN DIVISION  
S. C. W. D.  
(408) 265 2600

APPROVE FOR PAYMENT

5653801 1772

4 1200 601

301530-403

*Norman E. Matteoni* 5/6/85

CX NO.

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

June 3, 1985

A Professional Association

Norman E. Matteoni\*

Allan Robert Saxe

Margaret Ecker Nanda

\*Professional Corporation

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

*GROSS'S  
ATTORNEY*

Legal Services for May, 1985

Tele-communications with Laurie (5/10);  
Smith (5/17, 5/30); Henley (5/23, 5/30)

Research of file materials re claims of  
Gross

Norman E. Matteoni .9 hours x \$150  
Legal Clerk .2 hours x \$ 20

\$135.00

\$ 40.00

TOTAL DUE AND OWING →

\$175.00

FINANCE DIVISION  
S.C.V.W.D.  
(408) 265 2600

55 JUN 11 A 9:31

RECEIVED

APPROVAL FOR PAYMENT

NO 5653801 FUND 1772

FBI 4 OCT 1200 LRG 601

ACQRE 30153.5 SEC 403 CAT

Approved By

Date

Ch. No

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

*Matteoni, Saxe & Nanda / Lawyers*

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

July 1, 1985

*A Professional Association*

*Norman E. Matteoni\**

*Allan Robert Saxe*

*Margaret Ecker Nanda*

*\*Professional Corporation*

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for June, 1985

Tele-communications with Smith (6/5);  
Henley (6/19)

Correspondence with Henley (6/5)

Review Demurrer (6/19)

Research and preparation of Response  
to Demurrer (6/23)

File Response

Norman E. Matteoni	1.3 hours x \$150	\$195.00 ✓
Legal Clerk	5.0 hours x \$ 20	<u>\$100.00</u> ✓

TOTAL DUE AND OWING \$295.00 *in NT*

APPROVAL FOR PAYMENT

*5653801* *1772*

*4* *1200* *001*

*301532* *403*

*[Signature]* *7/5/85* *OK. NO.*

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI



RECEIVED

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

August 1, 1985

A Professional Association

Norman E. Matteoni\*

Allan Robert Saxe

Margaret Ecker Nanda

\*Professional Corporation

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for July, 1985  
Correspondence with Lawrie (7/23)  
Court appearance on demurrer (7/23)  
Preparation for hearing (7/23)  
Review of moving party's points and  
authorities (7/23)  
Preparation of order overruling demurrer  
(7/23)  
Clearance of order by opposing counsel  
and signature by judge (7/25)

Norman E. Matteoni	1.5 hours x \$150	\$225.00
Legal Clerk	1.5 hours x \$ 20	<u>\$ 30.00</u>

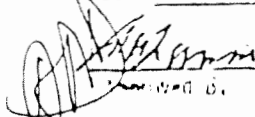
TOTAL DUE AND OWING \$255.00

APPROVAL FOR PAYMENT

5653801 - 1772

4 - 1200 - 601

SCOPE 301536 - 403 - 041

 8/1/85  
DATE CA. NO.

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

RECEIVED

55 AUG 7 1985 19:53

1408 2000

*Matteoni, Saxe & Nanda/Lawyers*

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

September 5, 1985

### *A Professional Association*

*Norman E. Matteoni\**

Allan Robert Saxe

*Margaret Ecker Nanda*

• *Professional Corporation*

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for August, 1985

Correspondence with (Henley (8/18); Smith (8/18)

.3 hours x \$150

\$45.00

RECEIVED

25 SEP 6 12:38




2600

APPROVAL FOR PAYMENT

5653801 FUND 1772

QBI 4 001 1200 000 601

SCOPE, 301532, 403

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

*Matteoni, Saxe & Nanda/Lawyers*

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

November 1, 1985

### *A Professional Association*

*Norman E. Mattoni\**

Allan Robert Saxe

*Margaret Ecker Nanda*

• *Professional Corporation*

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for October, 1985

Correspondence with Smith (10/23, 10/28);  
Lawrie (10/28)

.5 hours x \$150

\$75.00

APPROVAL FOR PAYMENT

5653801 FUND 1772

CBJ 4 ACCI 1200 ORG 601

SCOPE 30153Q SEC 403 CAT       

APL  
Approved by: APL Date: 11/1/85 Ex. No.         

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONTI

*Matteoni, Saxe & Nanda/Lawyers*

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

December 2, 1985

*A Professional Association*

*Norman E. Matteoni\**

*Allan Robert Saxe*

*Margaret Ecker Nanda*

*\*Professional Corporation*

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for November, 1985

Tele-communications with Lawrie (11/13)

Review of A/N report (11/13)

.3 hours x \$150

\$45.00

APPROVAL FOR PAYMENT

NO 5653801 1772

CO 4 1200 601

NO 301530 403

*Norman E. Matteoni* 12/5/85  
APPROVED BY: \_\_\_\_\_  
DATE: \_\_\_\_\_

88120 12/5/85

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

*Matteoni, Saxe & Nanda / Lawyers*

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

February 3, 1986

*A Professional Association*

*Norman E. Matteoni\*  
Allan Robert Saxe  
Margaret Ecker Nanda*

*\*Professional Corporation*

• Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for January, 1986

Tele-communications with Lawrie (1/6);  
Hollwedel (1/6)

Meeting with Lawrie, McNeely and Hollwedel  
(1/16)

Correspondence with Smith (1/6)

Attendance at Trial Setting Conference  
(1/22)

? Report to client (1/22)

**Bd. of directors**

3.7 hours x \$150

\$555.00

APPROVAL FOR PAYMENT

5653801 1772

4 1200 601

301530 403

*Roll [Signature] 3/7/86*

MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

*Matteoni, Saxe & Nanda/Lawyers*

852 North First Street • 3rd Floor • San Jose, California 95112 / Telephone (408) 971-6411

March 3, 1986

*A Professional Association*

*Norman E. Matteoni\**

*Allan Robert Saxe*

*Margaret Ecker Nanda*

*\*Professional Corporation*

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for February, 1986

Tele-communications with Lawrie (2/4);  
Attorney for insurance carrier (2/13);  
Redig (2/21, 2/28)

Conference with clients and Howedell  
(2/7); clients and Redig re assessment  
of building structure (2/14)

Conference with Smith (2/18)

Draft and finalize first set of inter-  
rogatories (2/18)

4.1 hours x \$150

\$615.00

APPROVAL FOR PAYMENT

5653801 1772

4 1200 601

301530 403

5/7/86

PLEASE MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

*Matteoni, Saxe & Nanda / Lawyers*

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

April 1, 1986

*A Professional Association*

*Norman E. Matteoni\**

*Allan Robert Saxe*

*Margaret Ecker Nanda*

*\*Professional Corporation*

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for March, 1986

Tele-communications with Lawrie (3/7);  
Smith (3/21); McNeely (3/24)

Correspondence with Lawrie (3/9, 3/11,  
3/17); Redig (3/9); Hollwedel (3/9, 3/24);  
Smith (3/11, 3/19); Dziesinski (3/25)

Review of answers to interrogatories (3/24)

Norman E. Matteoni	2.8 hours x \$150	\$420.00
Ruth & Going (see attached):		<u>\$489.50</u>

TOTAL DUE AND OWING

\$909.50

APPROVAL FOR PAYMENT

5653801 1772

4 1200 601

301539 403

*APPROVED*  
*4/16/86*

PLEASE MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI

*Matteoni, Saxe & Nanda/Lawyers*

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

April 30, 1986

A Professional Association

Norman E. Matteoni\*  
Allan Robert Saxe  
Margaret Ecker Nanda

\*Professional Corporation

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for April, 1986

Tele-communications with Bischoff (4/2); Lawrie (4/3, 4/14, 4/25); Hollwedel (4/14, 4/15, 4/24); MacRostie (4/15); Smith's office (4/15)

Discussion with client (4/8)

Conferences with Hollwedel and Lawrie (4/17, 4/22); Smith, Boggini and Gross (4/21); Lawrie and Hollwedel (4/28)

Meetings with Hollwedel (4/25); Gross, Boggini, Hollwedel and Smith (4/25)

Correspondence with Hollwedel (4/1); Lawrie (4/1, 4/20); Smith (4/3, 4/8); Henley (4/8); Insurance Attorney (4/20)

Preparation of offer statement (4/7); preparation of Trial Settlement Statement (4/25)

Appearance before Board in Executive Session (4/8)

Review file (4/1, 4/7, 4/20, 4/28); review deposition (4/28)

Research re admissibility of video (4/30)

Norman E. Matteoni	17.1 hours x \$150	\$2,565.00
Legal Assistant	2.0 hours x \$ 25	\$ 50.00

Costs Advanced:

Superior Court, filing fee	\$ 300.00
Xeroxing copy of Gross deposition	\$ 10.20

TOTAL DUE AND OWING \$2,925.20 *muf*

PLEASE MAKE CHECK PAYABLE TO: NORMAN E. MATTEONI



*Matteoni, Saxe & Nanda/Lawyers*

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

May 30, 1986

*A Professional Association*

*Norman E. Matteoni\**  
*Allan Robert Saxe*  
*Margaret Ecker Nanda*

*\*Professional Corporation*

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for May, 1986

Tele-communications with Redig (5/1); Lawrie (5/9, 5/12, 5/14, 5/15, 5/29); McNeely (5/9); Smith (5/9, 5/14, 5/15); Hollwedel (5/9, 5/22); Calendar Secretary (5/9); Calarrudo (5/16, 5/27)

Conference telephone call with Lawrie, Hollwedel and McNeely (5/15)

Conferences with Hollwedel and Lawrie (5/1); clients and appraiser (5/7); Hollwedel (5/9); clients (5/12); clients and Hollwedel (5/13)

Meeting with Lawrie and Hollwedel (5/8)

Correspondence with Smith (5/15); Henley (5/15); Hollwedel (5/15, 5/28)

Review of file materials (5/1); review of video (5/7)

Trial preparation (5/5, 5/8, 5/9, 5/10, 5/12, 5/13)

Trial (5/12)

Preparation of jury instructions (5/5, 5/7); draft questions for jurors (5/5); Motion in Limine (5/8)

Research (5/9, 5/13)

*Matteoni, Saxe & Nanda/Lawyers*

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

July 1, 1986

*A Professional Association*

*Norman E. Matteoni\**

*Allan Robert Saxe*

*Margaret Ecker Nanda*

*\*Professional Corporation*

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for June, 1986

Tele-communications with Hollwedel (6/1, 6/25, 6/26, 6/29); Lico (6/6, 6/23, 6/24, 6/25, 6/27); Lawrie (6/13, 6/17, 6/20); Calarrudo (6/13, 6/25, 6/27); McNeely (6/20, 6/23, 6/24, 6/27); Mehan (6/24); Henley (6/27); Smith (6/27)

Conferences with McNeely, Lawrie and Lico (6/11); Ferguson, Haugen, Hollwedel and McNeely (6/17); Hollwedel and Lawrie (6/17); Hollwedel and clients + review video tapes (6/18); Calarrudo (6/20); clients (6/30)

Meeting with Calarrudo (6/24, 6/26)

Correspondence to attorney in Granite Construction case (6/3, 6/23); Hollwedel (6/11); Lawrie (6/16); Talty (6/24); Mehan (6/24); Henley (6/26)

Letter report (6/2)

Preparation for deposition (6/1)

Research and preparation of points and authorities (6/23, 6/25)

Preparation of Trial Briefs (6/24)

Settlement Conference (6/26)

Trial preparation (6/29, 6/30)

*Bel of Directors*

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

July 31, 1986

A Professional Association

Norman E. Matteoni\*

Allan Robert Saxe

Margaret Ecker Nanda

\*Professional Corporation

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

STATEMENT

Re: Gross

Legal Services for July, 1986

Tele-communications with McNeely (7/1, 7/9);  
Smith (7/1); Calarrudo (7/1, 7/7); Hollwedel  
(7/1, 7/9); Lico (7/3, 7/9); Lawrie (7/9);  
O'Halloran (7/16) *General mgr*

Telephone conference with Lico and Hollwedel  
(7/1); Hollwedel, McNeely and Lico (7/3)

Conference with clients (7/3); client and  
witnesses (7/7)

Meeting with Hollwedel (7/8)

Correspondence with Lawrie (7/13); Dziesinski  
(7/13)

Payment of witness fee (7/13)

Trial preparation (7/1, 7/2, 7/7, 7/10, 7/11)

Trial (7/1, 7/2, 7/7, 7/8, 7/10, 7/11)

Research (7/8, 7/9)

Norman E. Matteoni 41.1 hours x \$150  
Joe Calarrudo (see attached bill)

\$6,165.00

\$1,032.00

Costs Advanced:

Herb Maricle, witness fee \$72.50

Parking fees \$32.50

Developing of photographs of

Gross parcel \$37.18

\$ 142.18

TOTAL DUE AND OWING

\$7,339.18

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 971-6411

September 2, 1986

A Professional Association

Norman E. Matteoni\*

Allan Robert Saxe

Margaret Ecker Nanda

\*Professional Corporation

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for August, 1986

Tele-communications with Henley (8/18,  
8/19); Smith (8/18)

Correspondence with Lawrie (8/17, 8/18);  
Hollwedel (8/18); Redig (8/18); McNeeley  
(8/18); Smith (8/28)

staff eng n

Review Smith letter of 8/13 and decision (8/17)

Draft Judgment (8/18)

Review judgment (8/24, 8/25)

Finalize Judgment (8/28)

Attend Executive Session of Water District  
Board (8/26)

Norman E. Matteoni 5.7 hours x \$150  
Ruth & Going (see attached bill)

\$ 855.00

\$ 891.60

TOTAL DUE AND OWING

\$1,746.60 ✓ NT

APPROVAL FOR PAYMENT

720 5653801 1772

4 1200 601

301536 403

Handwritten signature and date 9/7/86

October 1, 1986

Santa Clara Valley Water District  
Re: Gross

Page Two

9/23 Tele-communication with Smith, O'Leary .3 (NEM)  
9/25 Review and redraft points and authorities .8 (LA)  
9/25 Tele-communication with Henley, meeting with Gross; correspondence with Henley; draft response to motion for attorneys fees 1.0 (NEM)  
9/29 Redraft points and authorities 1.1 (LA)

Norman E. Matteoni  
Legal Assistant

5.0 hours x \$150  
10.1 hours x \$20

\$750.00  
202.00

TOTAL DUE AND OWING

\$952.00 NT

what  
meeting?

Henley - counsel  
for district should  
not even discussed  
this with Matteoni - he  
used the influence of his  
office with Matteoni?

IF HENLEY SAID YES - PAY  
HE WOULD INFLUENCE THE  
CASE - IF HE SAID NO -  
HE WOULD HAVE INFLUENCE

GENERAL LEDGER

56538.01 1772

4 1200 601

X30153P - 463

APM 10/7/86

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / San Jose, California 95112 / Telephone (408) 921-6411

October 1, 1986

A Professional Association

Norman E. Matteoni\*

Allan Robert Saxe

Margaret Ecker Nanda

\*Professional Corporation

Mr. Donald Lawrie, Chief of Real Estate  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Note for scope  
Re: Gross

Legal Services for September, 1986

9/8 Tele-communications with Lawrie, Gross; correspondence with Smith, Lawrie	.7 (NEM)
9/9 Review of Smith motion; correspondence with Henley	.5 (NEM)
9/10 Review file and assignment; research and file review; research and preparation of points and authorities in opposition to cost	3.5 (LA)
9/11 Tele-communication with Henley	.2 (NEM)
9/12 Tele-communication with Lico	.2 (NEM)
9/12 Research and memo	3.2 (LA)
9/14 Review file	.2 (NEM)
9/15 Tele-communication with Smith	.2 (NEM)
9/15 Drafting and research	1.5 (LA)
9/17 Tele-communication with Lico; review points and authorities in opposition to request for attorneys fees	.4 (NEM)
9/18 Correspondence with Smith; prepare motion to tax costs	.6 (NEM)
9/21 Prepare opposition to Motion for Litigation Expenses; review memorandum of points and authorities	.7 (NEM)

WHAT CONF?

Matteoni, Saxe & Nanda/Lawyers

852 North First Street • 3rd Floor / San Jose, California 95113 / Telephone (408) 971-6411

November 3, 1986

A Professional Association

Norman E. Matteoni\*

Allan Robert Saxe

Margaret Ecker Nanda

\*Professional Corporation

• Mr. Donald Lawrie, Chief of Real Estate, Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

S T A T E M E N T

Re: Gross

Legal Services for October, 1986

10/8 Correspondence with Smith; review language for berthing rights .3 (NEM)

10/9 Tele-communications with Smith; review Judgment .3 (NEM)

10/10 Correspondence with Henley; preparation for hearing; attendance at hearing on Motion for Attorneys Fees; file Judgment 2.3 (NEM)

10/15 Tele-communications with Smith's office, and Lico .3 (NEM)

10/21 Correspondence with Lico, Henley, and Smith; preparation of Final Order and Order for Refund of Security Deposit 1.0 (NEM)

10/22 Tele-communications with Henley; review of Henley memo ? .5 (NEM)

10/24 Tele-communications with Lawrie; correspondence with Smith .4 (NEM)

10/27 Report to auditor; prepare Satisfaction of Judgment and Acknowledgment of Right to Withdraw Funds .4 (NEM)

ok

# Vjoyce

Microsoft Word – Summary\_I–08–193  
12/17/08 03:40 PM





# ADVICE FILE SUMMARY SHEET

<b>Staff Name</b>	Valentina Joyce		
<b>Requestor Name</b>	Shanahan, Richard P.		
<b>Advisee Name</b>	Elphick, Enita		
<b>Agency Name</b>	City of Wheatland		
<b>Letter Number</b>	I-08-193		

## SUBJECT OF LETTER

C/I	X	C/I Code		Honoraria	
Campaign		Lobbying		84308	
SEI		Rev. Door		Gift Limits	
Co-Sponsored		Personal Use		Mass Mailing	
Prop. 34		Misc		Gift Reporting	

## BULLETIN SUMMARY

A city council member with a potentially disqualifying conflict of interest with respect to decisions regarding a proposed development project and who owns property within 500 feet of the project's boundary may not participate in city council decisions unless the decisions will affect her property in substantially the same manner as they will affect 10 percent or more of other property owners within the jurisdiction.

## Notes/Superseded Letters:

# State of California



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance  
(916) 322-5662

Administration • •  
322-5660

Executive/Legal • •  
322-5901

Enforcement  
322-6441

September 19, 1984

Robert W. Gross  
Chairman of the Board  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

Re: Your Request for Advice,  
Our Advice No. A-84-208

Dear Mr. Gross:

You have written requesting our advice regarding your situation. As I understand them, the material facts are as follows:

### FACTS

You are an elected member of the Board of Directors of the Santa Clara Valley Water District. Currently, you serve as Chairman of the Board of the District, which is a public agency. Coincidentally, you and your wife own real property which is appurtenant to the Guadalupe River, within the District's jurisdiction. This property was purchased long before your tenure on the District's Board commenced.

The District is currently developing a flood control project involving the Guadalupe River. This project will necessitate the acquisition, by the District, of a portion of your lands adjacent to the Guadalupe River. You have consistently disqualified yourself from participation in any District decisions involving the stretch of the flood control project which encompasses your lands.

### QUESTION

Your question is with regard to your role as a property owner whose land is about to be taken by the District. Specifically, you want to know if you can participate in private negotiations over price and terms of the taking or whether those matters must be settled in court by way of a condemnation proceeding, as has been suggested by the District's General Counsel, Mr. Albert Henley.

Robert W. Gross  
September 19, 1984  
Page 2

### CONCLUSION

You may not meet with the District's representatives in private negotiating sessions while you are also serving as a member of the District's Board of Directors. You may discuss your property's acquisition, as may any other member of the public, in an open, noticed hearing of your board. In that instance, having independent appraisals available for purposes of discussion could be of assistance. However, condemnation proceedings would also be an appropriate method for resolving these issues.

### ANALYSIS

The Political Reform Act<sup>1/</sup> (the "Act"), Section 87100, requires that public officials disqualify themselves from making, participating in making, or using their official positions to influence a decision of their agency in which they know or have reason to know that they have a financial interest.

You agree that you have a financial interest in the District's decision to acquire a portion of your property in that you have an interest in the real property and the decision will have a material financial effect upon that real property interest which is distinguishable from the effect upon the public generally. Consequently, you have properly disqualified yourself from any participation in the District's decisions relative to the stretch of the flood control project which includes your property; this includes any negotiations or other preliminary discussions.

Commission regulation 2 California Administrative Code Section 18700 (copy enclosed) discusses what activities constitute "making," "participating in making," and "using his or her official position to influence," within the context of the requirements of Section 87100 discussed above. In particular, subdivisions (d)(2) and (f)(1) of Regulation 18700 exclude:

Appearances by a public official as a member of the general public before an agency in the course of its prescribed governmental function to represent himself or herself on matters related solely to his or her personal interests.

---

<sup>1/</sup> Government Code Sections 81000-91014. All statutory references are to the Government Code unless otherwise specified. Our advice is limited to issues under the Act and you should consult with the Attorney General's office regarding Section 1090, et seq.

Robert W. Gross  
September 19, 1984  
Page 3

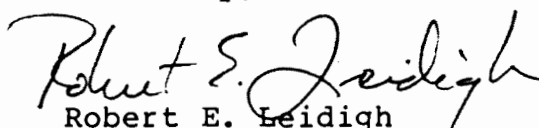
Consequently, it would be permissible for you to appear before the District's Board at a public hearing to speak on a matter related solely to your personal interest, even though you have been required to disqualify yourself from participation due to a financial interest in the decision about which you are addressing the Board. Thus, the terms of acquisition of your property could be discussed at an open session of the Board at which you appear as any other member of the public (having first placed your disqualification on the record).<sup>2/</sup>

However, this exemption from the requirement of non-participation does not extend to private communications to the Board, such as lobbying members of the Board or District staff. You are prohibited from conducting private negotiations with District staff over price and other terms of acquisition under Regulation 18700.

Lastly, we wish to point out to you the possible applicability of Section 1090 to your situation. I mentioned this to you in our telephone conversation and suggested that you contact the Attorney General's office for guidance in this regard. It may be that Section 1090 will dictate that a condemnation proceeding is the only method available to the District for acquiring property from one of its directors. This is certainly the case when a redevelopment agency seeks to acquire land from one of its members. See, Health and Safety Code Section 33393. In such court proceedings, you are free to participate fully as a property owner, but must not be involved in the District's actions as a Board member.

Should you have further questions regarding this matter, please do not hesitate to contact me at 916/322-5901.

Sincerely,

  
Robert E. Leidigh  
Counsel, Legal Division

REL:km

Enclosures

cc: Albert Henley, General Counsel

Robin Wakshull, Deputy District Attorney

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<sup>2/</sup> We note that the City of San Jose is utilizing appraisers and then having a hearing involving the landowners in its purchases of land surrounding the San Jose airport. This procedure could be helpful here.

# Santa Clara Valley Water District

ROBERT W. GROSS  
CHAIRMAN OF THE BOARD  
5750 ALMADEN EXPRESSWAY  
SAN JOSE, CALIFORNIA 95118  
TELEPHONE (408) 265-2600



August 13, 1984

Ms. Janis McLean, Legal Counsel  
F.P.P. Commission  
P.O. BOX 807 - 1100 K Street  
Sacramento, CA 95804

SUBJECT: Follow-up of phone conversation 8/13/84 and a  
clarification of conflict of interest questions

Dear Janis:

Thank you very much for your time today in reference to the above subject.

Under Government Code Section 83114, I would like to make a formal request and opinion per our conversation by telephone.

1. In late 1970, my wife and I purchased the property that is under question, the escrow closed in January 1971.
2. In 1980, I was elected to a four year term to the Board of Directors, and re-elected again for another four year term which will start in January 1985.
3. The Gaudalupe River has been studied by the County Flood Control and the U.S. Corps of Engineers for over 40 years, and it was only in the late 70's, the decision was to proceed with design and construction to follow. The project was broken down into stretches, with separate contracts for each one.
4. When the stretch (copy attached) was started, that would have a direct impact upon our lands, I made formal notice in the Board meeting that I will not be a participant in the discussions, debates or will I be voting on this.
5. The District real estate department had one meeting with my wife and myself to describe various proposals and value. At that meeting, I expressed that I may be a Director, but I am a property owner and wish to be treated in that manner.
6. Somewhere in time, the General Counsel for the District (copy of the letter attached), advised me as to the above, including the fact that I should not become involved in the valuation, and the decision shall be made by a court rather than upon negotiation, I personally find this somewhat confusing as to my role as a property owner.

Aug 16 8 02 AM '84

7. Last week, the District real estate department contacted me and asked if my wife and I would like to meet and discuss the taking of our lands for flood control? They stated that a formal appraisal had been made, and I was told that an outside attorney will be there to discuss the taking of subject property. I agreed to meet with them this Tuesday, August 16, 1984.

I begin to think this over and discussing it with my wife, I became very uncomfortable, that the District was to hire outside legal counsel because of my position as a Director, and I repeated my position again, I am a property owner with my wife and wished to be treated so.

After considerable thought, a question that came to mind, the District is protected, but am I? Also, how could an employee, which the attorney will be in this specific case be neutral when he is being paid by the District represent me?

I recalled the General Counsel's letter to me and questioned the facts that were before me and made the decision to contact the District Attorney's office in Santa Clara County for an opinion.

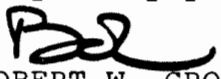
On Friday, last week, I spoke to Ms. Robin Wakshull, attorney for the D.A.'s office in Palo Alto (415)328-1173, and explained my role and how I was not comfortable with this taking of our lands. She advised me to contact your office for a clarification to this matter.

Somewhere, in a conversation with someone, I was advised that I do have rights and not to meet with the District and their counsel until I have a ruling from you.

I also was advise, that I do have the right of freedom of speech to express my opinion on this take, if I do, do not do it in a private meeting, it should be open and in public.

I will be notifying the District, that I will not be meeting with them, until I hear from your office as to the procedures I should take to avoid as Mr. Henley stated, "speaking not of evil so much as the appearance of it."

Very truly yours,

  
ROBERT W. GROSS  
1035 Vista Del Mar  
San Jose, CA 95132  
408-263-4170

ENCL

cc: Mr. Albert Henley, General Counsel, SCVWD  
Ms. Robin Wakshull, Attorney, SCC D.A.'s Office



TO: Albert T. Henley, General Counsel, SCVWD  
SUBJECT: Fair Political Practices Commission

FROM: Robert W. Gross  
DATE: August 14, 1984

I have been advised by the Fair Political Practices Commission to hold off with any direct meetings with the District or their agent until they review my letter (copy attached) in reference to the taking of our land. I shall keep you informed as soon as possible.

Chairman of the Board of Directors

Attachment

# Santa Clara Valley Water District

ALBERT THOMAS HENLEY  
GENERAL COUNSEL

5750 ALMADEN EXPRESSWAY  
SAN JOSE, CALIFORNIA 95118  
TELEPHONE (408) 265-2600



56-346

November 22, 1982

Robert W. Gross  
Director, District 3  
Santa Clara Valley Water District  
906 Elizabeth Street, Second Floor  
Alviso, California 95002

Dear Bob:

As you are an owner of improved properties in the Alviso area which will be affected by flood control work now in contemplation by the District, it will be proper for you to make sure that your actions as a Board member do not bring you into a conflict of interest.

I refer to two properties specifically: one is your headquarters or office, the other is a brick structure located very close to the stream. As to the former, the effect of flood protection will be the same for you as for all the other owners there. In these circumstances, assuming no other interest, you would have no obligation to abstain from debate and vote when the issue of undertaking the project comes before the Board.

However, the brick building is in quite another category. This structure may have to be acquired by us. If that becomes a possibility, you would be obliged to declare your interest and take no part in debate or vote. Further, the valuation of the take should, in such a circumstance, be made by a court rather than upon negotiation.

During the period of public discussion of the kind of flood protective structure best adapted to the area, you will wish to avoid any suggestion to the other residents favoring a choice which will dictate whether condemning your building will be necessary or not. I do not consider such an action by you to be something you would consider. I am speaking not of evil so much as the appearance of it.

Faithfully,

*Albert Henley*

Albert Thomas Henley  
General Counsel

bc: J. O'Halloran; R. Esau; G. Korbay

ATH:scs



PROPERTY UNDER DISCUSSION

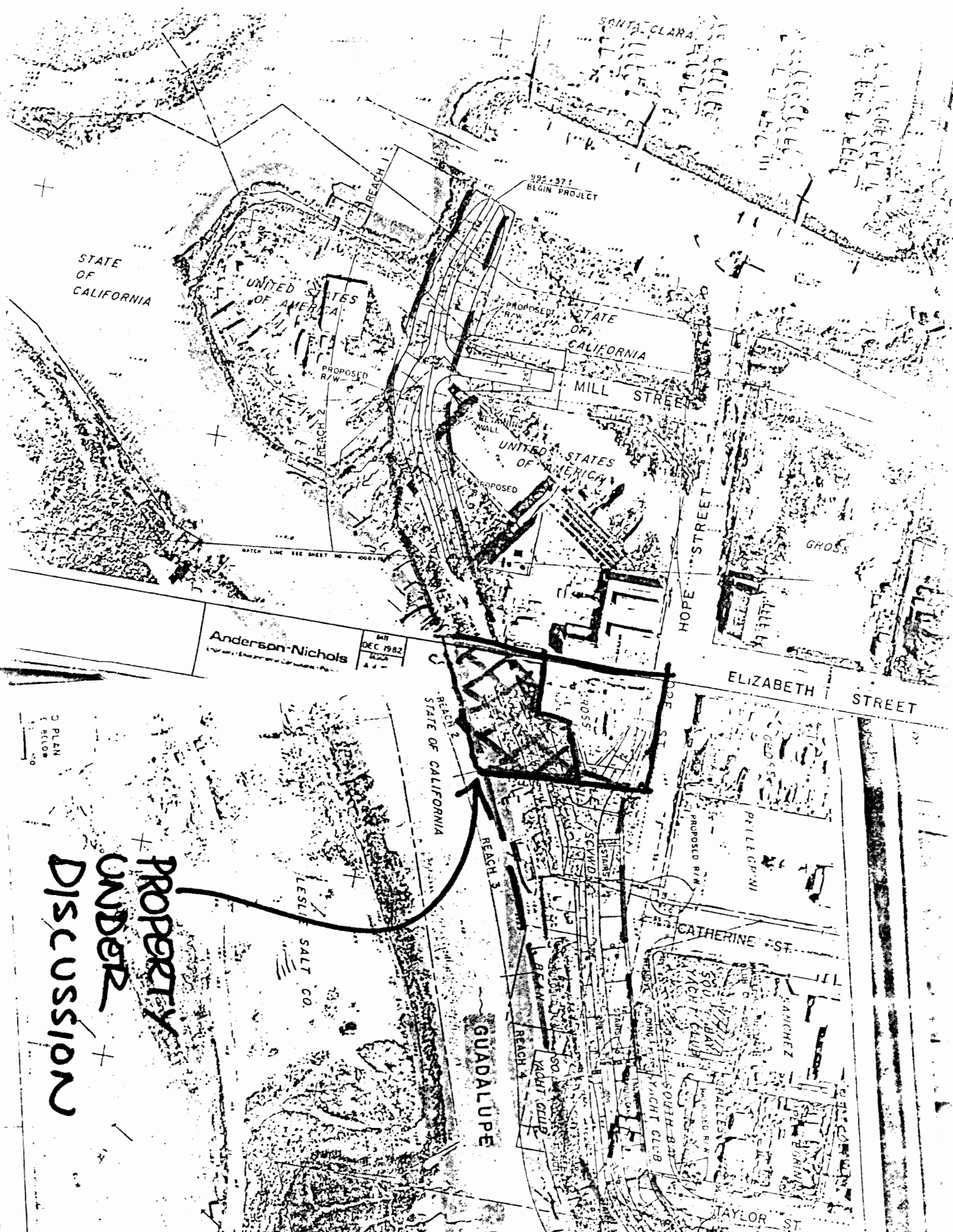
UPP. GOVT

LANDS OF GROSS

28.41

R/W

10.6



PROPERTY  
UNDER  
DISCUSSION

Anderson-Nichols  
DATE DEC 1982  
SANTA CLARA

# Santa Clara Valley Water District



F P P C  
AUG 16 8 02 AM '84  
ALBERT THOMAS HENLEY  
GENERAL COUNSEL  
5750 ALMADEN EXPRESSWAY  
SAN JOSE, CALIFORNIA 95118  
TELEPHONE (408) 265-2600

August 14, 1984

Robert W. Gross  
1035 Vista Del Mar  
San Jose, California 95132

Dear Bob:

Allow me to comment on the problem of District acquisition of property you and Mrs. Gross own in the Alviso area as outlined in the letter to Attorney McLean you have shown me. It is possible I have been misunderstood.

My advice to you, which was to take no part in District Board discussion and decisions affecting your personal financial interests in Alviso (or anywhere), does not have an effect of hindering your vigorous pursuit of those interests. Your freedom to protect yourself as a landowner is unimpaired. You can say and do anything at all that you might have said and done if you were not on the Board except use your position to influence a Board decision in the matter.

Thus, the question of your rights as a landowner, including the level of your compensation on a take in eminent domain, will be decided by a court, where you and the District are equal as litigants. I have insisted on this because it protects your right to be fully heard AND it protects you and your colleagues from accusations of improper influence and conflict of interest.

It must be understood that our special condemnation Counsel is not intended to be neutral, he works for the District, the public. It is for you either in pro. per. or through your own counsel to present your position and to defend your determinations of what is owed you.

The reason that I will not appear in the matter and that no District employee will be appraising or negotiating is simply that, again, there must be no appearance of influence by a Board member upon a Board employee to make a determination in your favor.

The idea of getting specific written direction from the FPPC is good insurance. You cannot, as a public official, have too much documented protection from the kind of accusations people find so easy to make. At your suggestion I am enclosing a copy of this letter for you to send along to Ms. McLean.

Faithfully,

*Albert Thomas Henley*

Albert Thomas Henley  
General Counsel

cc: Janis McLean, Legal Counsel,  
FPPC, P. O. Box 807, Sacramento, CA 95804

# State of California



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance • • Administration • • Executive/Legal • • Enforcement  
(916) 322-5662 322-5660 322-5901 322-6441

August 17, 1984

Robert W. Gross  
Chairman of the Board  
Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

Re: A-84-208

Dear Mr. Gross:

Your letter requesting advice under the Political Reform Act has been referred to Robert E. Leidigh, an attorney in the Legal Division of the Fair Political Practices Commission. If you have any questions about your advice request, you may contact this attorney directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

A handwritten signature in cursive script that reads 'Barbara A. Milman'.

Barbara A. Milman  
General Counsel

BAM:plh

F P P P P  
DEC 26 11 27 AM DEC 26 11 27 AM

December 22, 1986

Bob,

My wife and I will be in Sacramento on January 5, 1987, for the various inaugural events and if at all possible, we would like to meet with you to review this file before any action is taken.

Our concerns are very specific as to the role that the district and the outside special counsel played in this action and we are requesting your opinion and advice in this matter.

Very truly,

  
Bob Gross



# California Fair Political Practices Commission

January 2, 1987

Yolanda B. & Robert W. Gross  
1035 Vista Del Mar  
San Jose, CA 95132

Re: 86-346

Dear Mr. and Mrs. Gross:

Your letter requesting advice under the Political Reform Act was received on December 26, 1986 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert E. Leidigh, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths  
General Counsel

DMG:km